

**PLANNING AND ZONING COMMISSION
MINUTES
SPECIAL MEETING
June 9, 2009**

Place: Room 206
Town Hall

TIME: 7:15 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Conze, Bigelow, Spain, Hutchison, Finke, Grimes

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat

Chairman Conze read the first general meeting agenda item:

Meeting with Anthony Homicki, Assessor

Mr. Homicki introduced himself and said that he has been the Darien Assessor since the year 2003. He explained he has a thirty + year career in the assessment and evaluation of properties. The most recent Darien revaluation was concluded with an effective date of October 1, 2008. The town utilized four state certified appraisers under contract with the Tyler Company all having considerable experience in communities such as Darien. Over most of the 2008 calendar year they performed a general review of all properties, took digital photos of each and every parcel, spent an extensive amount of time analyzing the integrity of the details of each assessor's record and verified the usable status of over 850 properties that were arms length sales that occurred over a three year period. The overall objective of the 10-1-2008 revaluation was to make clear, concise, and accurate values for each and every property and to establish parity. The assessor is required to define this with a final report to the state as mandated and defined within performance statistics standards.

Mr. Homicki noted there was considerable market fluctuation in the fall of 2008. The assessed values reflect sales that have taken place over the previous three years. He said that the MAI standards for appraisals were utilized and he made sure to ask the appraisers to reflect the values in the region during that process. He said that there are numerous unique situations with properties, each of which gets special attention.

Mr. Homicki said State Statutes require commercial values be based upon the return on investment and cash flow basis (I & E's) as well as the market and cost approaches to value. He said that land values will reflect what is currently on the property, blended with what could go on the site, depending on land use regulations, site conditions, and other factors. He said that much of the information that he requested from the property owners, including things such as contact rent and cash flow information, stays confidential. Data questionnaires were mailed to each and every Darien Buyer with an excellent return rate.

Mr. Conze asked how the value of land was determined, was it based on the current use or the potential use for the property? Mr. Homicki said that there are a variety of methods utilized to determine the fair market value. He said that the process is very time consuming which is the reason the Town selected a consultant, Tyler Evaluations, one of the largest mass appraisal companies in the country. As mass appraisal specialists they set value using a computer assisted mass appraisal

system which refines all sales and identifies residual techniques in setting land assessments with and without improvements. Mr. Homicki said that generally the income approach is used as the primary approach to value for commercial parcels. Income and expense statements are mandated by state statute to be submitted by all commercial property. Large land owners such as Country Clubs and other land owners with large, undeveloped property and sites with large open properties are generally assessed with a primary value on the developed portion of the property and a secondary, greatly reduced value on the remaining area. For example, the Wee Burn Country Club has five acres that are primarily developed, and approximately 200 acres of undeveloped, or open area. Darien Country Club has approximately eight acres of developed land and 131 acres of undeveloped or open land. Mr. Homicki said that he had requested income statements and other information from the country clubs, but had never received the information that he requested. He said that he used the same methodology as in the past.

Mr. Ginsberg noted that in order for the Town to adopt a different means of taxing the open space area, the Planning and Zoning Commission would have to include a provision within the recommendations portion of the Town Plan of Conservation and Development. The Representative Town Meeting (RTM) would then need to adopt, or amend, the town ordinances to allow the open space tax reduction.

It was noted that some open spaces are already reduced in value because they contain wetland, ponds, water courses, or other restrictions to use and development. Mr. Homicki noted that they do not assume that each acre of land can be fully developed. He said that the undeveloped land is generally given the same base values for the various sites. All excess land other than the conforming building site. For example, eight acres of land in a two acre zone is taxed at approximately the same rate as 200 acres of land in a 2-acre zone. Once the base values are determined, the unique circumstances and factors of the property are taken into account in the assessment.

First Selectwoman Evonne Klein said that the Board of Selectmen has talked to the town counsel about this matter and they are in the process of gathering information so that it can be provided to all persons concerned.

There being no further discussion on this matter, Chairman Conze read the next agenda item:

Discussion regarding intersections/crosswalks in downtown—Andrea Sangrey.

Andrea Sangrey, Manager--Community Development Services, said that there has been a study of potential locations for additional crosswalk improvements. One such location is the intersection of Mechanic Street and the Boston Post Road. She noted that Tokeneke Road is another potential location but it is a state road, and therefore the approval process would be more difficult. Mechanic Street is a town road, and it is more likely to be approved by the town authorities with the State DOT concurrence. West Avenue and the Boston Post Road is another heavily utilized pedestrian area that has been examined. First Selectwoman Evonne Klein said that the Board of Selectmen has been investigating the West Avenue intersection and are looking into the installation of a pedestrian safety island, midway between the two existing sidewalks.

Mr. Bigelow suggested that the area between Sedgwick Avenue and downtown needs to be looked at to see if there are other intersections on that area. First Selectwoman, Evonne Klein, said that the

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Route 124/Mansfield Avenue intersection is currently having a new light installed that will have a pedestrian crossing phase.

Chairman Conze read the following agenda item:

Update regarding Route 1 corridor study.

Mr. Ginsberg said that the Route 1 corridor study has been undertaken by the Southwestern Regional Planning Agency (SWRPA). Andrea Sangrey will be providing the requested information to SWRPA regarding local land use, studies, and information. Only a two page brief summary is now available. The contractor/consultant will be selected by SWRPA over the next few weeks. He said that hopefully the information provided by the study will be able to be incorporated into the Town of Darien Plan of Conservation and Development. Mr. Conze said that he suspects that this is just a transit-oriented increase in density of development scheme. Mr. Ginsberg said that his understanding is that the concentration is on traffic flow and pedestrian safety and providing alternative circulation patterns, rather than concentrating on rezoning or increasing density. Mr. Bigelow said that the traffic flow in Darien, particularly on Route 1, is often governed by congestion that occurs on I-95 (CT Turnpike).

First Selectwoman Evonne Klein said that the Route 1 corridor study is traffic flow oriented, not density or re-zoning oriented. She agreed that the traffic on Route 1 is highly impacted by the congestion on I-95. She said that there has been renewed discussion about the connection of Mansfield Ave (State Route 124) to Tokeneke Road (State Route 136).

Chairman Conze then read the following agenda item:

Business Site Plan, Baywater 1096 BPR, LLC, 1096 Boston Post Road.

Proposal to relocate Fairbanks Photo.

Mr. Ginsberg said that this appears to be a straightforward request to relocate Fairbanks Photo so that the building can be renovated while the existing tenant stays within the same vicinity. He said that the use is a permitted use within the Central Business District zone. The following motion was made: That the Commission approve relocation of Fairbanks photo to a smaller portion of the existing building. The motion was made by Mr. Hutchinson, second by Mrs. Grimes and unanimously approved.

Chairman Conze read the following agenda item.

Business Site Plan #24-Q, Lanphier Day Spa, 25 Old King's Highway North #52 (Goodwives Shopping Center), DC Zone.

Proposal to relocate an existing stairway and to construct an addition in the rear of the building for an employee lounge, storage, and office area to be used in conjunction with the existing Lanphier Day Spa use.

Mr. Ginsberg noted that the proposed expansion is in the rear of the existing building and would underneath the existing roof covering a portion of the pavement. He said that the expansion would not impact traffic flow and that the interior space was apparently needed to comply with health and fire code requirements. Commission members discussed the proposed addition and expansion of the

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building. The following motion was made: That the Commission approve the requested expansion of the building to allow for the employee room to the rear of the building. The motion was made by Mr. Hutchinson, seconded by Mr. Spain and unanimously approved.

Mr. Conze read the following general meeting item:

Discussion, deliberation, and possible decision regarding:

Flood Damage Prevention Application #272, Land Filling & Regrading Application #226, Joanne Frawley, 37 Greenwood Avenue. Proposal to construct additions and alterations to the existing residence, to fill and regrade in association with the driveway and parking area, and perform related site development activities within a regulated area.

The following motion is made: That the Commission waive the process of reading aloud the entire draft resolution because each member has had an opportunity to review the draft prior to the meeting. The motion was made by Mr. Hutchinson and seconded Mr. Bigelow, and unanimously approved.

It was noted that approvals had been granted by the Environmental Protection Commission and Zoning Board of Appeals. The location of the existing drain pipe within the easement and the relocating of that drain pipe were discussed. The Commission members require that the maintenance issues be resolved before the work is undertaken. The following motion was made: That the Commission adopts the following resolution to approve the project. The motion was made by Mr. Bigelow, seconded by Mr. Spain and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 9, 2009**

Application Number: Flood Damage Prevention Application #272
Land Filling & Regrading Application #226

Street Address: 37 Greenwood Avenue
Assessor's Map #8 Lot #152

Name and Address of Property Owner: Joanne Frawley
37 Greenwood Avenue
Darien, CT 06820

Name and Address of and Applicant: Anthony Totilo
Applicant's Representative: Anthony Totilo Architects
43 Greenwood Avenue
Darien, CT 06820

Activity Being Applied For: Proposal to construct additions and alterations to the existing residence, to fill and regrade in association with the driveway and parking area, and perform related site development activities within a regulated area.

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Property Location: The property is situated on the west side of Greenwood Avenue approximately 1000 feet north its intersection with Camp Avenue.

Zone: R-1/3

Date of Public Hearing: May 26, 2009

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: May 14 & 21, 2009

Newspaper: Darien News-Review

Date of Action: June 9, 2009

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
June 18, 2009

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant and applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to construct additions and alterations to the existing residence, to fill and regrade in association with the driveway and parking area, and perform related site development activities within a regulated area.
2. The Darien Environmental Protection Commission (EPC) approved this project on February 4, 2009 as part of EPC #1-2009. That approval is hereby incorporated by reference.
3. On April 29, 2009 the Darien Zoning Board of Appeals (ZBA) denied in part and granted in part with stipulations, Calendar 17-2009 so that this project could proceed. The denial involved the proposed garage location. The plans must be modified so that the entire garage must be at least 30 feet from the front property line and the entire side of the garage must be at least 17.4 feet from the northerly property line to comply with the requirement for the total of two side yards. That approval is hereby incorporated by reference.

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4. The State of Connecticut DEP Office of Long Island Sound Programs sent an e-mail regarding this application dated March 25, 2009. In that e-mail, they note that they "...do not have any comments at this time..."
5. The Commission notes that there is an existing easement on the subject property from the 1930s.
6. The Commission notes the need for the applicants to file a document outlining the protocol for maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
7. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
8. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
9. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
10. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #272 and Land Filling & Regrading Application #226 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

A. Construction and related activity shall be in accordance with the following plans:

- Plot Plan prepared for Joanne Frawley by Edward J. Frattaroli, Inc., scale 1"=20', last revised October 14, 2008.
- Preliminary Site Plan, by Edward J. Frattaroli, Inc., scale 1"=20', dated March 16, 2009, Dwg. 1 of 1.
- Frawley Residence, 37 Greenwood Avenue, by Anthony Totilo Architects and Associates, dated 08.07.07 and last revised 11.15.08, Sheets No. Z1, EPC1, D0-D6.

All of these plans must be revised to reflect the partial denial by the Zoning Board of Appeals. The entire garage must be at least 30 feet from the front property line and the entire side of the garage must be at least 17.4 feet from the northerly property line to comply with the requirement for the total of two side yards.

- B. During the public hearing, Commission members discussed the presence of a pipe that drains storm water from the street, through the subject property and toward the Noroton River. That pipe is to be relocated by the applicant so that it will go around the proposed addition. The applicant must obtain all permits and approvals necessary from the Department of Public Works (DPW) before starting the relocation of that pipe. One issue that must be resolved to the

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satisfaction of DPW is the long term maintenance of the pipe and drainage system. A copy of the DPW permit and maintenance agreement/details must be submitted to the Planning & Zoning Department prior to the start of the pipe relocation work. The Commission strongly recommends that the existing pipe be replaced with one of the same size or larger.

- C. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- D. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the new foundation complies with the applicable flood damage prevention requirements (except for the floor elevation that was varied by the Zoning Board of Appeals). The foundation design incorporates several flood gates that will allow flood water to enter the inside of the new foundation wall to equalize pressure and minimize the possibility of collapse or lateral movement of the house. When flood waters recede, the design of the slab and the flood gates will allow the flood waters to automatically drain from within the new foundation. The plans shall also include any waterproofing measures to be incorporated to minimize flood damage.
- E. During construction, the applicant shall utilize sediment and erosion controls as required by the EPC permit and as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. Once the foundation of the structure has been installed, the applicant shall submit an 'as built' survey to verify compliance with the setback requirements and minimum floor elevation requirements of the regulations and this approval. Work on the addition above the new foundation cannot proceed until the as-built survey has been submitted and determined to be to the satisfaction of the Zoning Enforcement Officer.
- G. Prior to the issuance of a Certificate of Zoning Compliance for the proposed work, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department and/or the Darien Land Records. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 37 Greenwood Avenue to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner as well, within the next 60 days of this approval and prior to the start of any filling or regrading work.
- H. A final "as-built" survey is hereby required to certify that all regrading, construction, drainage structures and site improvements near and/or within the flood hazard area are all in compliance

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with the approved plans. In addition, a Professional Engineer shall certify in writing that all of the work has been properly completed in accordance with the approved plans.

- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- J. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, a permit from DPW for the proposed pipe and for the new curb cut on Greenwood Avenue (a Street Opening Permit).
- K. This permit shall be subject to the provisions of Sections 829f and 858 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 8, 2010). This may be extended as per Sections 829f and 858.

All provisions and details of the plan as required to be modified herein, shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any filling or regrading work, or this approval shall become null and void.

Chairman Conze read the following agenda item:

**Discussion of Proposal for Conceptual Design Services for Mixed-Use Development—
Proposed Study regarding Old King's Highway South (existing OB Zone near downtown)**

Mr. Ginsberg noted that the draft proposal was originally discussed in January and now there has been further discussion to indicate that there should be a broader study of the entire downtown area. Mr. Conze said that the office buildings on Old King's Highway South are ready for redevelopment and the town could consider the installation of a large parking structure that could be used by a variety of property owners. The parking structure could serve a number of mixed use buildings including retail uses and residential uses.

Mr. Ginsberg said that it might be beneficial if the Planning and Zoning Commission agrees to meet with the Board of Selectmen.

First Selectwoman Evonne Klein asked that the Planning and Zoning Commission review the Darien Revitalization Incorporated downtown report and recommendations that were produced in 2006. She said that the Board of Selectmen would be glad to meet with the Planning and Zoning Commission. She also noted that commuter parking is a priority for the State and that the town needs to re-read the copies of the Fitzgerald and Halliday parking study that was preformed in 2007.

Mr. Ginsberg will try to arrange a meeting on July 7 or July 14, to include the Planning and Zoning Commission and Board of Selectman.

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David Genovese said that his company is working hard to help formulate good public/private partnerships to result in just the right types of project for the entire community.

Approval of Minutes

May 26, 2009 Public Hearing

The following motion was made: That the Commission adopt the minute as presented. The motion was made by Mrs. Grimes, seconded by Mr. Finke and unanimously approved.

There being no further business, the Special Meeting was closed at 8:24 P.M. The regularly scheduled meeting immediately followed.

Respectfully submitted,

David J. Keating
Assistant Director of Planning